

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

BERNHARDT TIEDE, II;  
et al.,

Plaintiffs,

v.

BRYAN COLLIER, in his official capacity as  
Executive Director of Texas Department of  
Criminal Justice,

Defendant.

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Civil Action No.: 1:23-cv-01004-RP

**PLAINTIFFS' REPLY IN SUPPORT OF THEIR EMERGENCY MOTION TO  
EXCLUDE TESTIMONY AND EVIDENCE PURSUANT TO RULE 37 AND TO  
COMPEL 30(B)(6) DEPOSITION**

**Exhibit 8**

**Excerpt from Rough Transcript of Testimony of  
Defendant Bryan Collier (August 2, 2024)**

(CAUTION)

THE FOLLOWING IS A ROUGH DRAFT OF THE REQUESTED PROCEEDINGS AND, THEREFORE, MAY NOT BE UTILIZED AS A CERTIFIED RECORD FOR TEXT-CITING PURPOSES. AS SUCH, DISCREPANCIES WILL APPEAR IN THIS UNEDITED AND UN-PROOFREAD FORM. PLEASE NOTE THE PAGINATION ORDER WILL MOST LIKELY DIFFER FROM THE COMPLETED AND CERTIFIED TRANSCRIPT. THANK YOU FOR YOUR ADHERENCE TO THIS ADMONITION. August 2, 2024

THE COURT: Good morning.

MR. HOMIAK: Good morning, your Honor.

THE COURT: Anything we need to take up before we call our next witness?

MR. HOMIAK: Very briefly, your Honor we have a few more exhibits that we're going to do a little bit of cleanup on and the parties have discussed this in the hopes of expediting this process a little bit. So we have your Honor Plaintiff's Exhibit 17, which is an article that was discussed in Dr. Vassallo's direct examination so we'd like the move to admit that one.

MS. MCGEE: No objection, your Honor.

THE COURT: So admitted.

MR. HOMIAK: And then we have Plaintiff's Exhibit 81. We previously moved to admit the picture of Bernhardt Tiede in 2016, Plaintiff's Exhibit 81 is the photo taken

1 A. We do have a health services division. They are  
2 responsible for essentially coordinating the contract with  
3 the UTMB and Texas tech health science center they're also  
4 participants in a variety of committees. There's a master  
5 committee called the correctional managed health committee  
6 that essentially oversees healthcare in the system. It's  
7 made up of appointed members but we have staff from our  
8 health services division that work with that committee and  
9 the two healthcare partners on various committees to look  
10 at standards of care quality of care, many different  
11 levels of operation.

12 Q. And does the health services division do they have an  
13 open communication with UTMB and Texas tech?

14 A. Yes, ma'am, absolutely.

15 Q. Are you involved in any of that communication?

16 A. I communicate with our health services division  
17 regularly. I communicate with UTMB and Texas tech not  
18 nearly as frequently but I do on a fairly regular basis.  
19 Pretty familiar with lots of the folks that work on both  
20 sides.

21 Q. Mr. Collier, were you in the courtroom when  
22 plaintiffs counsel was questioning Dr. Leonardson about  
23 the heat score system that was developed?

24 A. Yes, ma'am.

25 Q. Do you recall plaintiff's counsel alleging that that

13:17:10 1 heat score was developed as a result of a settlement?

13:17:13 2 A. Yes.

13:17:14 3 Q. Are you aware if that settlement?

13:17:16 4 A. I am.

13:17:17 5 Q. When did that settlement take place?

13:17:19 6 A. 2018.

13:17:22 7 Q. Are you aware of the terms of that settlement?

13:17:25 8 A. Yes, ma'am. We were required to air condition the  
13:17:29 9 pack unit first initially we were required to temporarily  
13:17:32 10 air condition it during the months of April through  
13:17:33 11 October and April 15 through October 15 of each year we  
13:17:38 12 were required to install permanent air conditioning but I  
13:17:41 13 believe April of 2020. We also had some class  
13:17:46 14 instructions in the settlement. I don't remember if that  
13:17:48 15 was in final judgment or not but we had that that laid out  
13:17:51 16 some of the elements that Dr. Leonardson talked about the  
13:17:54 17 other day that were part of what the heat score is  
13:17:57 18 comprised of.

13:17:59 19 Q. And did you hear plaintiff's counsel essentially say  
13:18:02 20 that TDCJ handed a set of categories to Dr. Leonardson?  
13:18:06 21 Is that accurate?

13:18:08 22 A. When we were working on the settlement agreement we  
13:18:10 23 contracted with an expert doctor, Dr. REEG er who came in  
13:18:15 24 and looked at he had help idea the coal case but he also  
13:18:19 25 helped us with that issue as well to help look at how we

13:18:21 1 could take we have concept of trying to move the more  
13:18:24 2 vulnerable inmates into the cool beds that we had. Prior  
13:18:28 3 to that our air conditioned beds didn't necessarily house  
13:18:32 4 inmates that had a medical feed so we looked at how could  
13:18:35 5 we identify the inmates that we could best use in those  
13:18:38 6 air conditioned beds that we already had. We had close to  
13:18:40 7 30,000 beds at that time. So we hired Dr. Leonardson or  
13:18:45 8 excuse me Dr. REEG to actually help us develop a method  
13:18:49 9 and what he did is he went back and looked at the heat  
13:18:52 10 deaths from 2010 and 208 evil heat illness cases many  
13:18:57 11 factors he knew from his background and other areas and  
13:19:00 12 then together brought that information to us and we  
13:19:02 13 proposed that information in the summary judgment as the  
13:19:04 14 subclass.

13:19:07 15 Q. Is this Dr. REEG or is he a medical doctor?

13:19:09 16 A. Yes, ma'am.

13:19:10 17 Q. And did you just testify that he reviewed the data  
13:19:13 18 from the 2011 and 2012 heat deaths?

13:19:16 19 A. He did.

13:19:17 20 Q. So TDCJ didn't create a list of categories on its  
13:19:28 21 own, did it?

13:19:29 22 A. TDCJ is an agency, we extend it out to get an expert  
13:19:34 23 in to help do that.

13:19:35 24 Q. Did plaintiffs have to agree to these categories  
13:19:38 25 before the settlement was agreed to?

13:19:39 1 A. Yes. The language was agreed upon before we went to  
13:19:43 2 the final.

13:19:44 3 Q. Do you know if heat score system has been updated  
13:19:49 4 since to 18?

13:19:50 5 A. Yes, ma'am but I'm not sure how many times.

13:19:52 6 Q. Are you aware of why the heat score might be updated  
13:20:00 7 since 2018?

13:20:01 8 A. Yes, ma'am. Initially in Dr. Leonardson explained a  
13:20:05 9 little bit of that, there were categories gun to the  
13:20:07 10 University of Texas medical branch. They had to and Texas  
13:20:10 11 tech they had to then go in and identify how to pull that  
13:20:13 12 information from the health record. In that as well they  
13:20:16 13 also were automobile to add because they have free rain to  
13:20:19 14 add anything they need to to that heat score so if they  
13:20:22 15 identified a medical condition that they felt like might  
13:20:24 16 need to be in there they could add it I believe the other  
13:20:26 17 day they talked about muscular dystrophy being added as a  
13:20:29 18 condition as one that they've added tout but they have the  
13:20:33 19 ability to add conditions if they identify conditions that  
13:20:36 20 they feel like are heat vulnerable or if medication  
13:20:40 21 changes if they add a medication or identify that a  
13:20:42 22 medication has effect that may cause someone to be heat  
13:20:46 23 vulnerable then they could add that and we could modify  
13:20:49 24 the score.

13:20:49 25 Q. How is the need to add more communicated to TDCJ?